

House Study Bill 157

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON GASKILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to county recorders, fees collected by the county
2 recorders, and the county land record information system.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1556HC 83
5 md/sc/5

PAG LIN

1 1 Section 1. Section 331.601A, Code 2009, is amended by
1 2 adding the following new subsections:
1 3 NEW SUBSECTION. 0A. "Batch basis" means the delivery of
1 4 an accumulation of electronic documents or records recorded or
1 5 maintained by the county recorder.

1 6 NEW SUBSECTION. 1A. "Electronic document" means a
1 7 document or instrument that is received, processed,
1 8 disseminated, or maintained in an electronic format. The
1 9 submission of an electronic document through the county land
1 10 record information system electronic submission service shall
1 11 be equivalent to delivery of a document through the United
1 12 States postal service or by personal delivery at designated
1 13 offices in each county. Persons who submit electronic
1 14 documents for recording are responsible for ensuring that the
1 15 electronic documents comply with all requirements for
1 16 recording.

1 17 Sec. 2. Section 331.603, Code 2009, is amended by adding
1 18 the following new subsection:

1 19 NEW SUBSECTION. 5. a. The recorder or the governing
1 20 board of the county land record information system may enter
1 21 into an agreement to provide access to electronic documents or
1 22 records on a batch basis. The county recorder or the
1 23 governing board of the county land record information system
1 24 may collect reasonable fees for access to electronic documents
1 25 and records pursuant to such an agreement.

1 26 b. Electronic documents and records made available under
1 27 this subsection shall not include personally identifiable
1 28 information and shall be subjected to a redaction process
1 29 prior to the transfer of the electronic documents or records
1 30 to another person pursuant to an agreement under paragraph
1 31 "a".

1 32 c. Persons with access to electronic documents and records
1 33 shall certify in writing that they will not provide such
1 34 documents or records to any third party without the permission
1 35 of the county recorder or the governing board of the county
2 1 land record information system, as applicable.

2 2 Sec. 3. Section 331.605B, subsection 2, Code 2009, is
2 3 amended to read as follows:

2 4 2. A recorder or the governing board of the county land
2 5 record information system shall collect only statutorily
2 6 authorized fees for land records management. A recorder or
2 7 the governing board of the county land record information
2 8 system shall not collect a fee for viewing, accessing, or
2 9 printing documents in the county land record information
2 10 system unless specifically authorized by statute. However, a
2 11 recorder or the governing board of the county land record
2 12 information system may collect actual third-party fees

2 13 associated with accepting and processing statutorily
2 14 authorized fees, including credit card fees, treasury
2 15 management fees, and other transaction fees required to enable
2 16 electronic payment. For the purposes of this subsection, the
2 17 term "third-party" does not include the county land record
2 18 information system, the Iowa state association of counties, or

2 19 any of the association's affiliates.

2 20 Sec. 4. Section 331.605C, Code 2009, is amended to read as
2 21 follows:

2 22 331.605C ELECTRONIC TRANSACTION FEE == AUDIT.

~~2 23 1. For the fiscal year beginning July 1, 2003, and ending
2 24 June 30, 2004, the recorder shall collect a fee of five
2 25 dollars for each recorded transaction, regardless of the
2 26 number of pages, for which a fee is paid pursuant to section
2 27 331.604 to be used for the purposes of planning and
2 28 implementing electronic recording and electronic transactions
2 29 in each county and developing county and statewide internet
2 30 websites to provide electronic access to records and
2 31 information. Each county shall participate in the county land
2 32 record information system and shall comply with the policies
2 33 and procedures established by the governing board of the
2 34 county land record information system.~~

2 35 2. a. Beginning For the period beginning July 1, 2004,
3 1 and ending June 30, 2009, the recorder shall collect a fee of
3 2 one dollar for each recorded transaction, regardless of the
3 3 number of pages, for which a fee is paid pursuant to section
3 4 331.604 to be used for the purpose set forth in subsection 4.

~~3 5 b. For the period beginning July 1, 2009, and ending June
3 6 30, 2011, the recorder shall collect a fee of three dollars
3 7 for each recorded transaction, regardless of the number of
3 8 pages, for which a fee is paid pursuant to section 331.604 to
3 9 be used for the following purposes:~~

~~3 10 (1) Maintaining the statewide internet website and the
3 11 county land record information system.~~

~~3 12 (2) Integrating information contained in documents and
3 13 records maintained by the recorder and other land record
3 14 information from other sources with the county land record
3 15 information system.~~

~~3 16 (3) Implementing and maintaining a process for redacting
3 17 personally identifiable information contained in electronic
3 18 documents that are displayed for public access through an
3 19 internet website or that are transferred to another person or
3 20 entity for commercial purposes.~~

~~3 21 c. Beginning July 1, 2011, the recorder shall collect a
3 22 fee of two dollars for each recorded transaction, regardless
3 23 of the number of pages, for which a fee is paid pursuant to
3 24 section 331.604 to be used for the purposes in paragraph "b"
3 25 and for the following purposes:~~

~~3 26 (1) Establishing and implementing standards for recording,
3 27 processing, and archiving electronic documents and records.~~

~~3 28 (2) Expanding access to records by encouraging electronic
3 29 indexing and scanning of documents and instruments recorded in
3 30 prior years.~~

~~3 31 (3) Other activities deemed necessary by the governing
3 32 board of the county land record information system.~~

~~3 33 d. To the extent possible, fees collected in excess of the
3 34 amount needed for the purposes specified in this section shall
3 35 be used by the county land record information system to reduce
4 1 or eliminate service fees for electronic submission of
4 2 documents and instruments.~~

4 3 3. The county treasurer, on behalf of the recorder, shall
4 4 establish and maintain a county recorder's electronic
4 5 transaction fund into which all moneys collected pursuant to
4 6 ~~subsections 1 and subsection 2~~ shall be deposited. Interest
4 7 earned on moneys deposited in this fund shall be computed
4 8 based on the average monthly balance in the fund and shall be
4 9 credited to the county recorder's electronic transaction fund.

4 10 4. The local government electronic transaction fund is
4 11 established in the office of the treasurer of state under the
4 12 control of the treasurer of state. Moneys deposited into the
4 13 fund are not subject to section 8.33. Notwithstanding section
4 14 12C.7, interest or earnings on moneys in the local government
4 15 electronic transaction fund shall be credited to the fund.
4 16 Moneys in the local government electronic transaction fund are
4 17 not subject to transfer, appropriation, or reversion to any
4 18 other fund, or any other use except as provided in this
4 19 subsection. On a monthly basis, the county treasurer shall
4 20 pay ~~each fee collected pursuant to subsection 2~~ the fees
4 21 ~~deposited in the county recorder's electronic transaction fund~~
4 22 to the treasurer of state for deposit into the local
4 23 government electronic transaction fund. Moneys credited to
4 24 the local government electronic transaction fund are
4 25 appropriated to the treasurer of state to be used for the
4 26 purpose of paying the ongoing costs of integrating and
4 27 maintaining the statewide internet website ~~developed and~~
4 28 ~~implemented under subsection 1~~ to provide electronic access to
4 29 records and information.

4 30 5. The recorder shall make available any information
4 31 required by the county auditor or auditor of state concerning
4 32 the fees collected under this section for the purposes of
4 33 determining the amount of fees collected and the uses for
4 34 which such fees are expended.

4 35 Sec. 5. Section 331.606, Code 2009, is amended by adding
5 1 the following new subsection:
5 2 NEW SUBSECTION. 4. The recorder shall permanently archive
5 3 an unaltered version of each recorded document or instrument.
5 4 A document or instrument may be archived in its original
5 5 format, as an electronic document, or in another format
5 6 suitable for preserving information in the document or
5 7 instrument. A person may view and copy an original or
5 8 unaltered document or instrument in the office of the
5 9 recorder.

5 10 Sec. 6. Section 331.606A, subsection 1, paragraph c, Code
5 11 2009, is amended to read as follows:

5 12 c. "Redact" or "redaction" means the process of
5 13 permanently removing all or a portion of personally
5 14 identifiable information from documents.

5 15 Sec. 7. Section 331.606A, subsection 2, Code 2009, is
5 16 amended to read as follows:

5 17 2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The
5 18 preparer of a document shall not include an individual's
5 19 personally identifiable information in a document that is
5 20 prepared and presented for recording in the office of the
5 21 recorder. This subsection shall not apply to documents that
5 22 were executed by an individual prior to July 1, 2007. ~~Unless~~
~~5 23 provided otherwise by law, all documents described by this~~
~~5 24 section are subject to inspection and copying by the public.~~

5 25 Sec. 8. Section 331.606A, subsection 3, Code 2009, is
5 26 amended by striking the subsection and inserting in lieu
5 27 thereof the following:

5 28 3. REDACTION FROM ELECTRONIC DOCUMENTS. Personally
5 29 identifiable information that is contained in electronic
5 30 documents that are displayed for public access on a website,
5 31 or which are transferred to any person for commercial
5 32 purposes, shall be redacted prior to displaying or
5 33 transferring the documents. Each recorder that displays
5 34 electronic documents and the county land record information
5 35 system that displays electronic documents on behalf of a
6 1 county shall implement a system for redacting personally
6 2 identifiable information. The recorder and the governing
6 3 board of the county land record information system shall
6 4 establish a procedure by which individuals may request that
6 5 personally identifiable information contained in an electronic
6 6 document displayed on a website be redacted, at no fee to the
6 7 requesting individual. The requirements of this subsection
6 8 shall be fully implemented not later than December 31, 2011.

6 9 Sec. 9. Section 331.606A, subsection 5, Code 2009, is
6 10 amended to read as follows:

6 11 5. APPLICABILITY. ~~This section~~
6 12 a. Subsection 2 shall not apply to a preparer of a state
6 13 or federal tax lien or release, a military separation or
6 14 discharge record, or a death certificate that is prepared for
6 15 recording in the office of county recorder.

6 16 b. Subsection 3 shall not apply to a military separation
6 17 or discharge record, a birth record, a death certificate, or
6 18 marriage certificate unless such record or certificate is
6 19 incorporated within another document or instrument that is
6 20 recorded and displayed for public access on a website.

6 21 c. If a military separation or discharge record or a death
6 22 certificate is recorded in the office of the county recorder,
6 23 the military separation or discharge record or the death
6 24 certificate shall not be accessible through the internet
6 25 displayed for public access on an internet website, public
6 26 access terminal or other medium, or be transferred to any
6 27 person for commercial purposes.

6 28 Sec. 10. Section 331.606A, Code 2009, is amended by adding
6 29 the following new subsection:

6 30 NEW SUBSECTION. 6. LIMITATION OF LIABILITY. A recorder,
6 31 members of the board of supervisors, members of the Iowa
6 32 county recorders association, and members of the governing
6 33 board of the county land record information system, while
6 34 acting within the scope of their employment or agency, are not
6 35 subject to personal liability resulting from carrying out the
7 1 powers and duties of this part. Members of the Iowa county
7 2 recorders association or members of the governing board of the
7 3 county land record information system shall not be liable for
7 4 damages resulting from any act or omission associated with the
7 5 public disclosure of personally identifiable information if

7 6 practices were implemented in good faith to redact or
7 7 otherwise restrict access to personally identifiable
7 8 information and if the duty to redact was performed in good
7 9 faith.

7 10 Sec. 11. Section 331.606B, subsection 1, Code 2009, is
7 11 amended by adding the following new paragraph:

7 12 NEW PARAGRAPH. g. Each document or instrument presented
7 13 for recording shall meet the requirements of section 331.606A,
7 14 subsection 2.

7 15 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection
7 16 3, shall not apply to this Act.

7 17 EXPLANATION

7 18 This bill relates to the duties and authority of county
7 19 recorders and the county land record information system.

7 20 The bill requires each county to participate in the county
7 21 land record information system and comply with the policies
7 22 and procedures established by the governing board of the
7 23 county land record information system.

7 24 The bill increases the electronic transaction fee from \$1
7 25 per recorded transaction to \$3 for transactions recorded
7 26 between July 1, 2009, and June 30, 2011. The bill also
7 27 provides that the electronic transaction fee for transactions
7 28 recorded on or after July 1, 2011, is \$2. The bill specifies
7 29 the purposes for which electronic transaction fees may be used
7 30 and provides that fees collected in excess of the amount
7 31 needed shall be used by the county land record information
7 32 system to reduce or eliminate service fees for electronic
7 33 submission services.

7 34 The bill authorizes the county recorder or the governing
7 35 board of the county land record information system to enter
8 1 into an agreement to provide access to electronic documents or
8 2 records on a batch basis, as defined in the bill, and to
8 3 collect fees for such access. Any such agreement must require
8 4 the person with access to certify in writing that they will
8 5 not provide such documents or records to any third party
8 6 without the permission of the county recorder or the governing
8 7 board of the county land record information system.

8 8 The bill amends the definition of "redact" or "redaction"
8 9 to mean the process of permanently removing all or a portion
8 10 of personally identifiable information from documents and
8 11 requires that personally identifiable information contained in
8 12 electronic documents that are displayed for public access on a
8 13 website, or which are transferred to any person for commercial
8 14 purposes, be redacted prior to displaying or transferring the
8 15 documents.

8 16 The bill also requires each county recorder that displays
8 17 electronic documents and the county land record information
8 18 system that displays electronic documents on behalf of a
8 19 county to implement a system for redacting personally
8 20 identifiable information and to establish a procedure by which
8 21 individuals may request that personally identifiable
8 22 information contained in an electronic document displayed on a
8 23 website be redacted, at no fee to the requesting individual.
8 24 The bill requires procedures for redaction to be fully
8 25 implemented by December 31, 2011. The bill excludes certain
8 26 recorded documents and certificates from the prohibition on
8 27 inclusion of personally identifiable information and the
8 28 requirements for redaction of such information.

8 29 The bill provides that a county recorder shall refuse any
8 30 document or instrument presented for recording that contains
8 31 personally identifiable information, unless the person pays an
8 32 additional recording fee of \$10 per document or instrument.

8 33 The bill requires a county recorder to permanently archive
8 34 an unaltered version of each recorded document or instrument
8 35 and provides that such documents and instruments may be viewed
9 1 or copied in the office of the recorder.

9 2 The bill includes a limitation of liability for county
9 3 recorders, members of the Iowa county recorders association,
9 4 members of the board of supervisors, and members of the
9 5 governing board of the county land record information system
9 6 for actions taken in good faith that are within the scope of
9 7 their employment or agency.

9 8 The bill may include a state mandate as defined in Code
9 9 section 25B.3. The bill makes inapplicable Code section
9 10 25B.2, subsection 3, which would relieve a political
9 11 subdivision from complying with a state mandate if funding for
9 12 the cost of the state mandate is not provided or specified.
9 13 Therefore, political subdivisions are required to comply with
9 14 any state mandate included in the bill.

9 15 LSB 1556HC 83

9 16 md/sc/5.1

